



October 6, 2026

MEMORANDUM

CRC-26-79

TO: Coastal Resources Commission
FROM: Cameron Luck
SUBJECT: Amendments to 15A NCAC 07H .0306 and 07J .0210 for Septic Tank Relocation/Replacement within the Ocean Hazard AEC

Background

At its August 2026 meeting, the Coastal Resources Commission considered proposed amendments to 15A NCAC 07H .0306 addressing the repair, replacement, and relocation of onsite wastewater systems within Ocean Hazard Areas of Environmental Concern. The language presented at that meeting would have required CAMA review and possibly a permit for certain work to onsite wastewater systems located oceanward of the applicable vegetation line, measurement line, or pre-project vegetation line. The Commission did not advance the proposed language and instead directed staff to continue working with interested stakeholders to address concerns raised regarding the scope and implementation of the amendments.

Repair and Replacement under CAMA

CAMA at G.S. 113A-103(5)(b)(5) reads in part, "Maintenance or repairs (excluding replacement) necessary to repair damage to structures caused by the elements..." is not considered development. Consequently, a rule requiring a CAMA permit for an activity that constitutes repair under any statute would present a jurisdictional issue. CAMA does not specify what constitutes replacement but authorizes the Commission through G.S. 113A-103(c) to "define by rule (and may revise from time to time) certain classes of minor maintenance and improvements which shall be exempted from the permit requirements of this Article..." .

The Commission's existing rule at 15A NCAC 07J .0210, Replacement of Existing Structures, provides the parameters for distinguishing repair from replacement. Under the existing rule, work to a non-water dependent structure is considered replacement when the cost of the work exceeds 50 percent of the market value of the existing structure. Work that does not exceed that threshold is considered repair and does not require a CAMA permit. Applying the existing 50 percent threshold calculation when considering the house and wastewater system collectively would make it unlikely that work limited to the wastewater system would ever exceed the 50-percent threshold necessary to constitute replacement and therefore require a permit.



Staff therefore propose adding a new Subparagraph (3), ONSITE WASTEWATER SYSTEMS, to 15A NCAC 07J .0210 which will set a threshold to define replacement for an onsite wastewater system occurring within the Ocean Hazard Area AECs. Under the proposed amendment, an onsite wastewater system would be evaluated separately from the primary structure it serves and work costing no more than 25 percent of the replacement value of the onsite wastewater system would be considered repair, while work exceeding 25 percent would constitute replacement. The draft also establishes a process for determining the replacement value of the system and the cost of the proposed work.

Maintenance

The previous draft language proposed within 15A NCAC 07H .0306 also established a CRC-specific definition of maintenance intended to distinguish routine servicing from repair or replacement. Stakeholders raised concerns regarding the creation of a separate definition that could overlap or conflict with the statute used by DHHS for maintenance of onsite wastewater systems. Staff agree that a separate CRC definition is unnecessary. Each of the revised alternatives therefore relies directly on the existing definition of “maintenance” in G.S. 130A-334(3a) rather than creating a separate definition under the Commission's rules.

Moving forward, questions remaining for the Commission include the establishment of a 25% threshold to determine replacement, separating the principal structure from the onsite wastewater system and the line used to determine which systems are in areas subject to the replacement thresholds. Staff have prepared four conceptual alternatives for the Commission's consideration to determine which systems are subject to the replacement rule. Each alternative is attached as separate draft rule language.

Option 1 – Vegetation/Measurement/Pre-Project Vegetation Line

Option 1 retains the general approach previously considered by the Commission. A CAMA permit would be required for relocation or replacement of an onsite wastewater system when the system is located oceanward of the vegetation line, measurement line, or pre-project vegetation line, as applicable. Maintenance, as defined by G.S. 130A-334(3a), would continue without a CAMA permit.

This alternative most directly associates the applicability of the rule with the Commission's existing regulatory lines and the location of a wastewater system relative to the ocean beach. It also most closely resembles the approach previously presented to the Commission, while addressing statutory concerns regarding repair and the stakeholder concerns regarding the previous maintenance definition.

One concern raised during stakeholder review is that the vegetation line can move significantly following a storm and a community can undertake a beach nourishment project resulting in 100's of feet of sand between a system and the ocean with the primary structure still being situated waterward of the applicable regulatory line. As a result, a system that may have been subject to erosion previously could no longer be threatened but still be unable to receive a permit for replacement with no consideration for future beach nourishment.



Option 2 – 100 Feet Landward of Mean High Water

Option 2 replaces the vegetation-based trigger with a measurable distance from the surveyed mean high-water line (MHW). Under this alternative, the special provisions would apply when any portion of the affected component is located oceanward of a line established 100 feet landward of the surveyed MHW line of the Atlantic Ocean. The draft requires the mean high-water line to be established by a licensed professional land surveyor. This alternative developed from discussion of the existing DHHS siting framework, which currently includes a 50-foot setback from mean high water for all tidally influenced shorelines. During the most recent stakeholder meeting, 100 feet was suggested as a potential regulatory starting point, but was again, just a suggestion. Staff have incorporated that distance into the draft for the Commission's consideration; its inclusion should not be interpreted as a staff determination that 100 feet represents a scientifically established threshold and no analysis has been performed to determine an approximate amount of affected systems.

The main advantage of this approach is that it establishes a surveyable boundary that does not depend on the location or condition of vegetation following an erosion event. It would also provide additional distance beyond the existing DHHS threshold for identifying systems warranting CAMA review. However, the 100-foot distance is a new regulatory threshold and could capture systems based primarily on proximity to mean high water rather than demonstrated erosion impacts.

Option 3 – First-Row Primary Structures

Option 3 retains the vegetation line, measurement line, or pre-project vegetation line trigger used in Option 1 but further limits applicability to onsite wastewater systems serving a first-row primary structure, defined in the draft as a primary structure with no other primary structure located between it and the ocean beach.

This concept was suggested as a means of better targeting the rule toward properties most directly exposed to shoreline erosion and ocean flooding. The additional limitation would reduce the likelihood that the rule applies to a wastewater system that happens to be oceanward of an applicable regulatory line but is associated with a house located behind another primary structure and may not be experiencing the conditions the rule is intended to address.

The tradeoff is that the presence of another structure becomes part of the regulatory trigger. As shoreline conditions and structures change, a property could move into or out of first-row status even though the physical vulnerability of its wastewater system has not otherwise changed.

Option 4 – Imminently Threatened Structures/Loss of Certificate of Occupancy

Option 4 moves away from a geographic line as the primary trigger and instead ties permitting requirements to the condition of the primary structure served by the wastewater system. Under this alternative, the special provisions would apply when DCM has determined that the primary structure is imminently threatened under the Commission's existing rules or when the local government has revoked the certificate of occupancy for the primary structure.



The concept of using the Commission's existing imminently threatened structure standard was suggested during public comment at the August 2026 CRC meeting. This alternative would create the narrowest connection between the wastewater rule and properties already experiencing significant erosion-related impacts. It also relies, at least in part, on an existing CRC regulatory determination rather than establishing a new shoreline reference line solely for wastewater systems.

The limitation of this approach is that the wastewater system itself may become exposed, inundated, or otherwise vulnerable before the primary structure meets the definition of imminently threatened. Likewise, revocation of a certificate of occupancy is a local government action, not one undertaken by the state. Option 4 therefore provides the narrowest regulatory scope but could leave some vulnerable wastewater systems outside the rule until conditions affecting the associated structure become more severe.

Staff Discussion and Requested Commission Direction

The four alternatives provide different approaches to determining when work to an onsite wastewater system is considered development and is therefore subject to CAMA review. The present regulatory framework allows continued work that can perpetuate wastewater infrastructure in an increasingly vulnerable beach environment. The proposed options attempt to address this concern. The objective is to establish a point at which continued in-place work is no longer appropriate. The accompanying amendment to 15A NCAC 07J .0210 is intended to resolve the threshold question of what constitutes replacement for affected onsite wastewater systems within the Ocean Hazard Area AECs. The four alternatives to 15A NCAC 07H .0306 then provide different approaches for determining where or under what circumstances the framework applies and a CAMA permit is required.

Staff look forward to discussing this topic with the Commission at its upcoming October meeting.

Attachments:

- Enclosure 1: Option 1 – Vegetation/Measurement/Pre-Project Vegetation Line
- Enclosure 2: Option 2 – 100 Feet Landward of Mean High Water
- Enclosure 3: Option 3 – First-Row Primary Structures
- Enclosure 4: Option 4 – Imminently Threatened Structures/Loss of Certificate of Occupancy
- Enclosure 5: Draft Amendment to 15A NCAC 07J .0210



Proposed Amendment to 15A NCAC 7H .0306 General Use Standards For Ocean Hazard Areas – Septic Systems

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable.
- (2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:
 - (A) The total square footage of heated or air-conditioned living space;
 - (B) The total square footage of parking elevated above ground level; and
 - (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

- (3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, including septic tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334, shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:
 - (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
 - (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
 - (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
 - (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
 - (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
 - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
 - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
 - (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

- (K) Notwithstanding any other setback requirement of this Subparagraph, construction of a new building or other structure greater than or equal to 5,000 square feet in a community with an unexpired static line exception or Beach Management Plan approved by the Commission in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the vegetation line or measurement line, whichever is farthest landward; and
- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of a structure with a total floor area no greater than 10,000 square feet shall be allowed provided that the structure meets the following criteria:
 - (i) the structure is in a community with an unexpired static line exception, Beach Management Plan approved by the Commission, or was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- (4) If a primary dune exists in the AEC, on or landward of the lot where the development is proposed, the development shall be landward of the applicable ocean hazard setback and the crest of the primary dune. For existing lots where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, and shall not be located on or oceanward of a frontal dune. For the purposes of this Rule, "existing lots" shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune or ocean hazard setback, whichever is farthest from the vegetation line, pre-project vegetation line, or measurement line, whichever is applicable.
- (6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically but not be structurally attached to an existing structure that does not conform with current setback requirements.
- (7) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted, nor shall such development increase the risk of damage to public trust areas. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the pre-project vegetation line as defined in this Section, unless an unexpired static line exception or Beach Management Plan approved by the Commission has been approved for the local jurisdiction by the Coastal Resources Commission in accordance with 15A NCAC 07J .1200.
- (9) A local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for approval of a "Beach Management Plan" in accordance with 15A NCAC 07J.1200. If the request for a Beach Management Plan is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the pre-project vegetation line under the following conditions:

- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(3) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks, if applicable. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent buildings or structures exist, or the configuration of a lot, street, or shoreline precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure must meet the applicable setback from the Vegetation Line and will not be held to the landward-most adjacent structure or an average line of structures.
- (D) With the exception of swimming pools, the exceptions defined in Rule .0309(a) of this Section shall be allowed oceanward of the pre-project vegetation line.
 - (b) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.
 - (c) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.
 - (d) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:
 - (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
 - (2) restore the affected environment; or
 - (3) compensate for the adverse impacts by replacing or providing substitute resources.
 - (e) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgment shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.
 - (f) The relocation or elevation of structures shall require permit approval. For the purposes of this Section, a CAMA permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption system when located oceanward of the vegetation line, measurement line, or pre-project vegetation line, as applicable. Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.
 - (1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.
 - (2) Structures relocated landward entirely with non-public funds and that do not meet current applicable ocean hazard setbacks may shall be relocated the maximum feasible distance landward of its present location. Septic tanks, tanks, pump tanks, or components of a ground absorption system, shall not be relocated or replaced waterward of the

vegetation line, measurement line, or pre-project line, oceanward of the primary structure.

- (3) Existing structures shall not be elevated if any portion of the structure is located seaward of the vegetation line.

- (4) When structures, including septic tanks, are relocated within the Ocean Hazard Area of Environmental Concern, all remaining debris, ancillary structures, or infrastructure shall be removed from the original location.

- (g) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within eight years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within eight years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H.0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. September 9, 1977; Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985; RRC Objection due to ambiguity Eff. January 24, 1992; Amended Eff. March 1, 1992; RRC Objection due to ambiguity Eff. May 21, 1992; Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992; RRC Objection due to ambiguity Eff. May 18, 1995; Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995; Temporary Amendment Eff. January 3, 2013; Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013; Readopted Eff. December 1, 2020; Amended Eff. August 1, 2022; December 1, 2021.

Proposed Amendment to 15A NCAC 7H .0306 General Use Standards For Ocean Hazard Areas – Septic Systems

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

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- (2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:
 - (A) The total square footage of heated or air-conditioned living space;
 - (B) The total square footage of parking elevated above ground level; and
 - (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

- (3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, **including septic tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334,** shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:
 - (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
 - (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
 - (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
 - (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
 - (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
 - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
 - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
 - (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

- (K) Notwithstanding any other setback requirement of this Subparagraph, construction of a new building or other structure greater than or equal to 5,000 square feet in a community with an unexpired static line exception or Beach Management Plan approved by the Commission in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the vegetation line or measurement line, whichever is farthest landward; and
- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of a structure with a total floor area no greater than 10,000 square feet shall be allowed provided that the structure meets the following criteria:
 - (i) the structure is in a community with an unexpired static line exception, Beach Management Plan approved by the Commission, or was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- (4) If a primary dune exists in the AEC, on or landward of the lot where the development is proposed, the development shall be landward of the applicable ocean hazard setback and the crest of the primary dune. For existing lots where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, and shall not be located on or oceanward of a frontal dune. For the purposes of this Rule, "existing lots" shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune or ocean hazard setback, whichever is farthest from the vegetation line, pre-project vegetation line, or measurement line, whichever is applicable.
- (6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically but not be structurally attached to an existing structure that does not conform with current setback requirements.
- (7) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted, nor shall such development increase the risk of damage to public trust areas. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the pre-project vegetation line as defined in this Section, unless an unexpired static line exception or Beach Management Plan approved by the Commission has been approved for the local jurisdiction by the Coastal Resources Commission in accordance with 15A NCAC 07J .1200.
- (9) A local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for approval of a "Beach Management Plan" in accordance with 15A NCAC 07J.1200. If the request for a Beach Management Plan is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the pre-project vegetation line under the following conditions:

- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(3) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks, if applicable. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent buildings or structures exist, or the configuration of a lot, street, or shoreline precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure must meet the applicable setback from the Vegetation Line and will not be held to the landward-most adjacent structure or an average line of structures.
- (D) With the exception of swimming pools, the exceptions defined in Rule .0309(a) of this Section shall be allowed oceanward of the pre-project vegetation line.
 - (b) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.
 - (c) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.
 - (d) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:
 - (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
 - (2) restore the affected environment; or
 - (3) compensate for the adverse impacts by replacing or providing substitute resources.
 - (e) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgment shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.
 - (f) The relocation or elevation of structures shall require permit approval. For the purposes of this Section, a CAMA permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption system when any portion of the component to be repaired is located oceanward of a line established 100 feet landward of the surveyed mean high-water line of the Atlantic Ocean. The mean high-water line shall be established by a professional land surveyor licensed under Chapter 89C of the General Statutes, and the 100-foot distance shall be measured on the ground surface in a landward direction from that line. Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.
 - (1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.
 - (2) Structures relocated entirely with non-public funds and that do not meet current applicable ocean hazard setbacks ~~may~~ shall be relocated the

maximum feasible distance landward of its present location. Septic tanks, tanks, pump tanks, or components of a ground absorption system shall be relocated or replaced landward of the primary structure or at least 100 feet landward of the surveyed mean high-water line of the Atlantic Ocean, whichever is more restrictive. The 100-foot distance shall be measured in accordance with Paragraph (f) of this Rule.

(3) Existing structures shall not be elevated if any portion of the structure is located seaward of the vegetation line.

(4) When structures, including septic tanks, are relocated within the Ocean Hazard Area of Environmental Concern, all remaining debris, ancillary structures, or infrastructure shall be removed from the original location.

(g) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within eight years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within eight years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H.0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. September 9, 1977;
Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985; RRC
Objection due to ambiguity Eff. January 24, 1992;
Amended Eff. March 1, 1992;
RRC Objection due to ambiguity Eff. May 21, 1992;
Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992; RRC Objection due to
ambiguity Eff. May 18, 1995;
Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;
Temporary Amendment Eff. January 3, 2013;
Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022; December 1, 2021.

Proposed Amendment to 15A NCAC 7H .0306 General Use Standards For Ocean Hazard Areas – Septic Systems

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable.
- (2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:
 - (A) The total square footage of heated or air-conditioned living space;
 - (B) The total square footage of parking elevated above ground level; and
 - (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.
- (3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, **including septic tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334,** shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:
 - (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
 - (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
 - (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
 - (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
 - (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
 - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
 - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
 - (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

- (K) Notwithstanding any other setback requirement of this Subparagraph, construction of a new building or other structure greater than or equal to 5,000 square feet in a community with an unexpired static line exception or Beach Management Plan approved by the Commission in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the vegetation line or measurement line, whichever is farthest landward; and
- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of a structure with a total floor area no greater than 10,000 square feet shall be allowed provided that the structure meets the following criteria:
 - (i) the structure is in a community with an unexpired static line exception, Beach Management Plan approved by the Commission, or was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- (4) If a primary dune exists in the AEC, on or landward of the lot where the development is proposed, the development shall be landward of the applicable ocean hazard setback and the crest of the primary dune. For existing lots where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, and shall not be located on or oceanward of a frontal dune. For the purposes of this Rule, "existing lots" shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune or ocean hazard setback, whichever is farthest from the vegetation line, pre-project vegetation line, or measurement line, whichever is applicable.
- (6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically but not be structurally attached to an existing structure that does not conform with current setback requirements.
- (7) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted, nor shall such development increase the risk of damage to public trust areas. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the pre-project vegetation line as defined in this Section, unless an unexpired static line exception or Beach Management Plan approved by the Commission has been approved for the local jurisdiction by the Coastal Resources Commission in accordance with 15A NCAC 07J .1200.
- (9) A local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for approval of a "Beach Management Plan" in accordance with 15A NCAC 07J.1200. If the request for a Beach Management Plan is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the pre-project vegetation line under the following conditions:

- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(3) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks, if applicable. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent buildings or structures exist, or the configuration of a lot, street, or shoreline precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure must meet the applicable setback from the Vegetation Line and will not be held to the landward-most adjacent structure or an average line of structures.
- (D) With the exception of swimming pools, the exceptions defined in Rule .0309(a) of this Section shall be allowed oceanward of the pre-project vegetation line.
 - (b) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.
 - (c) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.
 - (d) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:
 - (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
 - (2) restore the affected environment; or
 - (3) compensate for the adverse impacts by replacing or providing substitute resources.
 - (e) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgment shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.
 - (f) The relocation or elevation of structures shall require permit approval. For purposes of this Section, a CAMA permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption system serving a first-row primary structure when located oceanward of the vegetation line, measurement line, or pre-project vegetation line, as applicable. For purposes of this Paragraph, "first-row primary structure" means a primary structure with no other primary structure located between it and the ocean beach. Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.
 - (1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.
 - (2) Structures relocated landward entirely with non-public funds and that do not meet current applicable ocean hazard setbacks may shall be relocated the maximum feasible distance landward of its present

location. Septic tanks, tanks, pump tanks, or components of a ground absorption system, shall not be relocated or replaced waterward of the vegetation line, measurement line, or pre-project line, oceanward of the primary structure.

- (3) Existing structures shall not be elevated if any portion of the structure is located seaward of the vegetation line.

- (4) When structures, including septic tanks, are relocated within the Ocean Hazard Area of Environmental Concern, all remaining debris, ancillary structures, or infrastructure shall be removed from the original location.

- (g) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within eight years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within eight years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H.0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. September 9, 1977;
Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985; RRC
Objection due to ambiguity Eff. January 24, 1992;
Amended Eff. March 1, 1992;
RRC Objection due to ambiguity Eff. May 21, 1992;
Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992; RRC Objection due to
ambiguity Eff. May 18, 1995;
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Temporary Amendment Eff. January 3, 2013;
Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013;
Readopted Eff. December 1, 2020;
Amended Eff. August 1, 2022; December 1, 2021.

Proposed Amendment to 15A NCAC 7H .0306 General Use Standards For Ocean Hazard Areas – Septic Systems

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in the Coastal Resources Commission's rules shall be located according to whichever of the following is applicable:

- (1) The ocean hazard setback for development shall be measured in a landward direction from the vegetation line, the pre-project vegetation line, or the measurement line, whichever is applicable.
- (2) The ocean hazard setback shall be determined by both the size of development and the shoreline long term erosion rate as defined in Rule .0304 of this Section. "Development size" is defined by total floor area for structures and buildings or total area of footprint for development other than structures and buildings. Total floor area includes the following:
 - (A) The total square footage of heated or air-conditioned living space;
 - (B) The total square footage of parking elevated above ground level; and
 - (C) The total square footage of non-heated or non-air-conditioned areas elevated above ground level, excluding attic space that is not designed to be load-bearing.

Decks, roof-covered porches, and walkways shall not be included in the total floor area unless they are enclosed with material other than screen mesh or are being converted into an enclosed space with material other than screen mesh.

- (3) With the exception of those types of development defined in 15A NCAC 07H .0309(a), no development, including any portion of a building or structure, **including septic tanks, pump tanks, or components of a ground absorption system, as defined in G.S. 130A-334,** shall extend oceanward of the ocean hazard setback. This includes roof overhangs and elevated structural components that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings. The ocean hazard setback shall be established based on the following criteria:
 - (A) A building or other structure less than 5,000 square feet requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (B) A building or other structure greater than or equal to 5,000 square feet but less than 10,000 square feet requires a minimum setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;
 - (C) A building or other structure greater than or equal to 10,000 square feet but less than 20,000 square feet requires a minimum setback of 130 feet or 65 times the shoreline erosion rate, whichever is greater;
 - (D) A building or other structure greater than or equal to 20,000 square feet but less than 40,000 square feet requires a minimum setback of 140 feet or 70 times the shoreline erosion rate, whichever is greater;
 - (E) A building or other structure greater than or equal to 40,000 square feet but less than 60,000 square feet requires a minimum setback of 150 feet or 75 times the shoreline erosion rate, whichever is greater;
 - (F) A building or other structure greater than or equal to 60,000 square feet but less than 80,000 square feet requires a minimum setback of 160 feet or 80 times the shoreline erosion rate, whichever is greater;
 - (G) A building or other structure greater than or equal to 80,000 square feet but less than 100,000 square feet requires a minimum setback of 170 feet or 85 times the shoreline erosion rate, whichever is greater;
 - (H) A building or other structure greater than or equal to 100,000 square feet requires a minimum setback of 180 feet or 90 times the shoreline erosion rate, whichever is greater;
 - (I) Infrastructure that is linear in nature, such as roads, bridges, pedestrian access such as boardwalks and sidewalks, and utilities providing for the transmission of electricity, water, telephone, cable television, data, storm water, and sewer requires a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater;
 - (J) Parking lots greater than or equal to 5,000 square feet require a setback of 120 feet or 60 times the shoreline erosion rate, whichever is greater;

- (K) Notwithstanding any other setback requirement of this Subparagraph, construction of a new building or other structure greater than or equal to 5,000 square feet in a community with an unexpired static line exception or Beach Management Plan approved by the Commission in accordance with 15A NCAC 07J .1200 requires a minimum setback of 120 feet or 60 times the shoreline erosion rate in place at the time of permit issuance, whichever is greater. The setback shall be measured landward from either the vegetation line or measurement line, whichever is farthest landward; and
- (L) Notwithstanding any other setback requirement of this Subparagraph, replacement of a structure with a total floor area no greater than 10,000 square feet shall be allowed provided that the structure meets the following criteria:
 - (i) the structure is in a community with an unexpired static line exception, Beach Management Plan approved by the Commission, or was originally constructed prior to August 11, 2009;
 - (ii) the structure as replaced does not exceed the original footprint or square footage;
 - (iii) it is not possible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under Subparagraph (a)(5) of this Rule;
 - (iv) the structure as replaced meets the minimum setback required under Part (a)(5)(A) of this Rule; a minimum setback of 60 feet or 30 times the shoreline erosion rate, whichever is greater; and
 - (v) the structure is rebuilt as far landward on the lot as feasible.
- (4) If a primary dune exists in the AEC, on or landward of the lot where the development is proposed, the development shall be landward of the applicable ocean hazard setback and the crest of the primary dune. For existing lots where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located oceanward of the primary dune. In such cases, the development may be located landward of the ocean hazard setback, and shall not be located on or oceanward of a frontal dune. For the purposes of this Rule, "existing lots" shall mean a lot or tract of land that, as of June 1, 1979, is specifically described in a recorded plat and cannot be enlarged by combining the lot or tract of land with a contiguous lot or tract of land under the same ownership.
- (5) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot where the development is proposed, the development shall be set landward of the frontal dune or ocean hazard setback, whichever is farthest from the vegetation line, pre-project vegetation line, or measurement line, whichever is applicable.
- (6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the total floor area and shall meet the setback requirements established in this Rule and 15A NCAC 07H .0309(a). New development landward of the applicable setback may be cosmetically but not be structurally attached to an existing structure that does not conform with current setback requirements.
- (7) Established common law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted, nor shall such development increase the risk of damage to public trust areas. Development shall not encroach upon public accessways, nor shall it limit the intended use of the accessways.
- (8) Development setbacks in areas that have received large-scale beach fill as defined in 15A NCAC 07H .0305 shall be measured landward from the pre-project vegetation line as defined in this Section, unless an unexpired static line exception or Beach Management Plan approved by the Commission has been approved for the local jurisdiction by the Coastal Resources Commission in accordance with 15A NCAC 07J .1200.
- (9) A local government, group of local governments involved in a regional beach fill project, or qualified "owners' association" as defined in G.S. 47F-1-103(3) that has the authority to approve the locations of structures on lots within the territorial jurisdiction of the association and has jurisdiction over at least one mile of ocean shoreline, may petition the Coastal Resources Commission for approval of a "Beach Management Plan" in accordance with 15A NCAC 07J.1200. If the request for a Beach Management Plan is approved, the Coastal Resources Commission shall allow development setbacks to be measured from a vegetation line that is oceanward of the pre-project vegetation line under the following conditions:

- (A) Development meets all setback requirements from the vegetation line defined in Subparagraphs (a)(1) and (a)(3) of this Rule;
- (B) Development setbacks shall be calculated from the shoreline erosion rate in place at the time of permit issuance;
- (C) No portion of a building or structure, including roof overhangs and elevated portions that are cantilevered, knee braced, or otherwise extended beyond the support of pilings or footings, extends oceanward of the landward-most adjacent habitable building or structure. The alignment shall be measured from the most oceanward point of the adjacent building or structure's roof line, including roofed decks, if applicable. An "adjacent" property is one that shares a boundary line with the site of the proposed development. When no adjacent buildings or structures exist, or the configuration of a lot, street, or shoreline precludes the placement of a building or structure in line with the landward-most adjacent building or structure, an average line of construction shall be determined by the Director of the Division of Coastal Management based on an approximation of the average seaward-most positions of the rooflines of adjacent structures along the same shoreline, extending 500 feet in either direction. If no structures exist within this distance, the proposed structure must meet the applicable setback from the Vegetation Line and will not be held to the landward-most adjacent structure or an average line of structures.
- (D) With the exception of swimming pools, the exceptions defined in Rule .0309(a) of this Section shall be allowed oceanward of the pre-project vegetation line.
 - (b) Development shall not cause irreversible damage to historic architectural or archaeological resources as documented by the local historic commission, the North Carolina Department of Natural and Cultural Resources, or the National Historical Registry.
 - (c) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.
 - (d) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:
 - (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
 - (2) restore the affected environment; or
 - (3) compensate for the adverse impacts by replacing or providing substitute resources.
 - (e) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant to the Division of Coastal Management that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. The acknowledgment shall state that the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.
 - (f) The relocation or elevation of structures shall require permit approval. For the purposes of this Section, a CAMA Permit is required for the relocation or replacement of any septic tank, pump tank, or component of a ground absorption serving a primary structure within an Ocean Hazard Area of Environmental Concern when the Division has determined that the primary structure is imminently threatened in accordance with 15A NCAC 07H .0308(b)(2)(B), or the local government has revoked the certificate of occupancy for the primary structure. Maintenance, as defined in G.S. 130A-334(3a), may be performed without a CAMA permit.
 - (1) Structures relocated landward with public funds shall comply with the applicable ocean hazard setbacks and other applicable AEC rules.
 - (2) Structures relocated landward entirely with non-public funds and that do not meet current applicable ocean hazard setbacks may shall be relocated the maximum feasible distance landward of its present

location. Septic tanks, tanks, pump tanks, or components of a ground absorption system, shall not be relocated or replaced waterward of the vegetation line, measurement line, or pre-project line. Oceanward of the primary structure.

- (3) Existing structures shall not be elevated if any portion of the structure is located seaward of the vegetation line.

- (4) When structures, including septic tanks, are relocated within the Ocean Hazard Area of Environmental Concern, all remaining debris, ancillary structures, or infrastructure shall be removed from the original location.

- (g) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in 15A NCAC 07H .0308(a)(2)(B). Any such structure shall be relocated or dismantled within eight years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence. However, if natural shoreline recovery or beach fill takes place within eight years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled. This permit condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed pursuant to 15A NCAC 07H.0308(a)(2).

History Note: Authority G.S. 113A-107; 113A-113(b)(6); 113A-124; Eff. September 9, 1977;
Amended Eff. December 1, 1991; March 1, 1988; September 1, 1986; December 1, 1985; RRC
Objection due to ambiguity Eff. January 24, 1992;
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RRC Objection due to ambiguity Eff. May 21, 1992;
Amended Eff. February 1, 1993; October 1, 1992; June 19, 1992; RRC Objection due to
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Amended Eff. August 11, 2009; April 1, 2007; November 1, 2004; June 27, 1995;
Temporary Amendment Eff. January 3, 2013;
Amended Eff. September 1, 2017; February 1, 2017; April 1, 2016; September 1, 2013;
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Amended Eff. August 1, 2022; December 1, 2021.

Proposed Amendment to 15A NCAC 7J .0210 Replacement of Existing Structures

15A NCAC 07J .0210 REPLACEMENT OF EXISTING STRUCTURES

Replacement of structures damaged or destroyed by natural elements, fire or normal deterioration is considered development and requires CAMA permits. Replacement of structures shall be permitted if the replacement is consistent with current CRC rules. Repair of structures damaged by natural elements, fire or normal deterioration is not considered development and shall not require CAMA permits. The CRC shall use the following criteria to determine whether proposed work is considered repair or replacement.

- (1) NON-WATER DEPENDENT STRUCTURES. Proposed work is considered replacement if the Department determines that the cost to do the work exceeds 50 percent of the market value of an existing structure either prior to a catastrophic event such as a fire or hurricane or if there is no catastrophic event, at the time of the request market value and costs are determined as follows:
 - (a) The market value of the structure shall be determined by the Division based on information provided by the applicant that is no more than one year old as of the date the request is made. The market value of the structure shall not include the value of the land or value resulting from the location of the property, the value of accessory structures, or the value of other improvements located on the property. The information provided by the applicant may include any of the following:
 - (i) an appraisal;
 - (ii) the replacement cost with depreciation for age of the structure and quality of construction;
 - (iii) or the tax assessed value.
 - (b) The cost to do the work is the cost to return the structure to its pre-damaged condition, using labor and materials obtained at market prices, regardless of the actual cost incurred by the owner to restore the structure. It shall include the costs of construction necessary to comply with local and state building codes. The cost shall be determined by the Division utilizing any or all of the following provided by the applicant:
 - (i) an estimate provided by a North Carolina licensed contractor qualified by license to provide an estimate or bid with respect to the proposed work;
 - (ii) an insurance company's report itemizing the cost, excluding contents and accessory structures;
 - (iii) or an estimate provided by the local building inspections office.
- (2) WATER DEPENDENT STRUCTURES. The proposed work is considered replacement if it enlarges the existing structure in any dimension, except where G.S. 113A-118(g) applies for dock and pier replacement. The proposed work is also considered replacement if:
 - (a) In the case of fixed docks, piers, platforms, boathouses, boatlifts, and free standing moorings that do not meet G.S. 113A-118(g), more than 50 percent of the framing and structural components (beams, girders, joists,

stringers, or pilings) must be rebuilt in order to restore the structure to its pre-damage condition. Water dependent structures that are structurally independent from the principal pier or dock, such as boatlifts or boathouses, are considered as separate structures for the purpose of this Rule. Maps for determining whether a property is adjacent to a federal navigation channel can be found at

<https://www.deq.nc.gov/about/divisions/division-coastal-management/coastal-management-rules-regulations/usace-federal-navigation-channel-gis>;

- (b) In the case of boat ramps, ramps and floating structures such as docks, piers, platforms, and modular floating systems, more than 50 percent of the square feet area of the structure must be rebuilt in order to restore the structure to its pre-damage condition;
- (c) In the case of bulkheads, seawalls, groins, breakwaters, and revetments, more than 50 percent of the linear footage of the structure must be rebuilt in order to restore the structure to its pre-damage condition.

(3) SEPTIC TANK SYSTEMS. For septic tank systems **[located waterward of the applicable regulatory line or otherwise meeting the conditions established in 15A NCAC 07H .0306(f)]**, work to the septic tank system shall be considered repair when the cost of the proposed work does not exceed 25 percent of the replacement value of the septic tank system. Work exceeding 25 percent of the replacement value of the septic tank system shall be considered replacement. The cost of the proposed work and the replacement value of the septic tank system shall be determined by the contractor performing the work and provided to the Division.

History Note: Authority G.S. 113A-103(5)b.5.; 113A-107(a),(b);
Eff. July 1, 1990;
Amended Eff. August 1, 2007;
Readopted Eff. January 1, 2023.